DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary
Office of Public Health and Science

Office for Human Research Protections
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August 19, 2002

Raymond F. Gesteland, Ph.D.
Vice President for Research
University of Utah
John R. Park Building, Room 203
201 S. Presidents Circle
Salt Lake City, UT 84112-9011

RE: Human Research Subject Protections Under Multiple Project Assurance (MPA) M-1082

Research Publication: Bonnie J. Kaplan, Ph.D., *et. al.*, Effective Mood Stabilization With a Chelated Mineral Supplement: An Open Label Trial in Bipolar Disorder. J Clin Psychiatry, 62(12): 936-944. 2001
Principal Investigator: Richard C. Ferre, M.D.

Dear Dr. Gesteland:

The Office for Human Research Protections (OHRP) has reviewed the University of Utah's (UU) February 22, 2002 report submitted in response to OHRP's January 8, 2002 letter regarding the above-referenced research.

Based on the review of your report, OHRP makes the following determinations regarding the above-referenced research:

(1) Department of Health and Human Services (HHS) regulations at 45 CFR 46.103(b) and 46.109(a) and the UU MPA require that the UU Institutional Review Board (IRB) review and approve all non-exempt human subject research covered by the UU MPA. OHRP finds that the above-referenced human subject research (i) did not satisfy the criteria for exemption under HHS regulations at 45 CFR 46.101(b); (ii) was conducted by a UU investigator and required

review under the UU MPA; and (iii) was conducted without review and approval of the UU IRB.

OHRP acknowledges that UU, after internal investigation into this matter, came to the same conclusions as OHRP. Furthermore, OHRP acknowledges that the UU IRB questioned the safety of the products under study in the above-referenced research and disapproved related studies submitted by the principal investigator because the risks to the subjects outweighed the benefits to the subjects or society.

(2) HHS regulations at 45 CFR 46.116(a)(2) require that informed consent include a description of any reasonably foreseeable risks or discomforts to the subjects. OHRP finds that the informed consent document for the above-referenced research failed to meet this requirement. In specific, the UU February 22, 2002 report stated that the informed consent document did not adequately address the safety concerns of the product under investigation.

Corrective Action: OHRP acknowledges that the UU IRB has required that the investigator undergo appropriate education on the HHS regulations for the protection of human subjects and will continue to be monitored for compliance with these regulations. UU has also committed to monitor and educate other faculty, particularly those that are peripheral to the institution, on the protection of human subjects. OHRP finds that these corrective actions adequately address the above findings and are appropriate under the UU MPA. As a result, there should be no need for further involvement of OHRP in this matter.

OHRP appreciates the continued commitment of your institution to the protection of human research subjects. Please do not hesitate to contact me should you have any questions.

Sincerely,

Patrick J. McNeilly, Ph.D.
Compliance Oversight Coordinator
Division of Compliance Oversight

cc: Ms. Lynne Chronister, Acting Director, IRB Office, UU
Dr. Mark Munger, Chair IRB, UU
Dr. Richard Ferre, UU
Commissioner, FDA
Dr. David Lepay, FDA
Dr. Greg Koski, OHRP
Dr. Melody H. Lin, OHRP
Dr. Michael Carome, OHRP
Mr. George Gasparis, OHRP
Dr. Jeffrey Cohen, OHRP

Ms. Jan Walden, OHRP
Mr. Barry Bowman, OHRP